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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,151	06/13/2001	Anders Stenberg	010315-104	4114

7590 09/16/2002

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EXAMINER	
WEBB, JAMISUE A	
ART UNIT	PAPER NUMBER
3761	

DATE MAILED: 09/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/879,151

Applicant(s)

STENBERG, ANDERS

Examiner

Jamisia A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numeral 4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

5. Regarding claim 1, the phrase "for example" or "ie" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

6. Regarding claims 4 and 8, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

7. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter.

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1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 7 recites the broad recitation 1 and 8 cm, and the claim also recites preferably 2 and 7 cm, and more preferably 3 and 6 cm which are the narrower statements of the range/limitation.

8. Claim 1 recites the limitations "the inside", "the rest" and "the backsheet material". There is insufficient antecedent basis for these limitations in the claim.

9. Claim 2 recites the limitations "the backsheet material" and "the inside". There is insufficient antecedent basis for these limitations in the claim.

10. With respect to Claim 2: the phrase "the inside thereof" is indefinite. It is unclear what "thereof" is referring to. Is it the inside of the backsheet, the absorbent article or the strip?

11. Claim 3 recites the limitations "the rest" and "the backsheet material". There is insufficient antecedent basis for these limitations in the claim.

12. Claim 5 recites the limitations "the longitudinal direction" and "the length". There is insufficient antecedent basis for these limitations in the claim.

13. Claim 6 recites the limitations "the transverse direction" and "the folded packaging position". There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell et al. (5,354,289).

16. With respect to Claim 1: Mitchell discloses the use of an absorbent article (10), a topsheet (14), backsheet (12) and core (16) located there between. Mitchell discloses the use of a strip tat is a wetness indicator (24) located on the inside of the article (See Figures 2-4), and is visible through the backsheet (column 8, lines 19-21). In which the strip will turn from a light yellow to a dark blue color (column 8, lines 15-19).

17. With respect to Claims 2 and 3: Mitchell discloses the strip (24) is a separate piece of material from the backsheet, and is adhered to the backsheet using a hot melt adhesive (column 5, lines 36-46), therefore essentially being part of the backsheet.

18. With respect to Claim 4: the indicator goes through an perceptible change when wetted (column 6, lines 66-67), therefore the strip acts as a capacity monitor. The indicator will change color over a portion of its length which is proportional to the quantity of deposited liquid, therefore is an indication of absorption. (See abstract).

19. With respect to Claims 5 and 6: The strip of Mitchell, has a length and a width, therefore extends in the longitudinal and the transverse direction. (See Figure 2) It is well known in the art that when a diaper is packaged it is folded in the central crotch region. The strip of Mitchell is located in the central region of the article, therefore it extends in the transverse direction along where the article can be folded. (See Figure 2).

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20. With respect to Claim 7: column 8 lines 11-12.

21. With respect to Claim 8: Mitchell discloses the word "Komfort" on the wetness indicating strip (See Figure 2), therefore indicating that it is a "Komfort" type wetness indicating diaper.

### *Conclusion*

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rajala et al. (6,059,710), Fluyeras (5,902,296), and Todd et al. (4,738,674) disclose wetness indicating strips, Cammarota et al. (6,307,119) disclose wetness indicating graphics and Lee (5,947,943) disclose a wetness indicating layer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on (703)308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw  
September 10, 2002

  
DENNIS RUHL  
PRIMARY EXAMINER